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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION**

TERRIE HOLSCHER, individually and
trustee for the WESTERN WYOMING
TRUST

Plaintiffs,

v.

THE UNITED STATES, and DOES 1-5,
Defendants.

Cause No. CV-21-83-BU-BMM

**COMPLAINT AND
DEMAND FOR JURY TRIAL**

Comes now Plaintiff Terrie Holscher, individually and as trustee for the Western Wyoming Trust, through counsel and for her Complaint against the United States states and alleges as follows:

PARTIES, JURISDICTION AND VENUE

1. Gregory Shideler is a citizen and resident of the State of Montana and resides in Gallatin County.
2. Plaintiff Terrie Holscher is a citizen and resident of the State of Montana and resides in Gallatin County. She is also the Trustee of the Western Wyoming Trust, which owns the vehicle at issue herein.

3. Jayne Dower Lux is, on information and belief, a citizen and resident of the State of Montana and resides in Gallatin County.

4. On information and belief, at the time of the events described hereinbelow, Lux was an employee of the U.S. Department of Veterans Affairs (DVA) and the remedy against her for negligence lies exclusively against the United States under the Federal Tort Claims Act (FTCA) 28 U.S.C. §§ 1346(b) and 2672 and pursuant also to 42 U.S.C. § 233. Plaintiff has exhausted her administrative remedies by filing a Standard Form 95 with the DVA, which has not issued a decision and more than six months have passed since the filing of the claim.

5. Defendants DOES 1-5 are potential parties whose identities are not currently known that may share some liability for Plaintiffs' injuries.

6. This Court has jurisdiction pursuant to 28 U.S.C. § 1346(b) because this is a civil action that raises claims against the United States for money damages for personal injury caused by the negligent or wrongful act or omission of employees of the Government.

7. Venue is proper in the United States District Court for the District of Montana, Butte Division, pursuant to 28 U.S.C. § 1391(b)(2), and L.R. 3.2(b), because the negligence upon which the subject claims are based occurred in Gallatin County, State of Montana.

III. Factual Allegations

8. On or about October 7, 2019, Greg Shideler was stopped at a red light on North 15th Ave., facing south, on the north side of the intersection waiting to go straight

(south) across the intersection with Durston Road.

9. At the time, Terrie Holscher, was a passenger in the vehicle.

10. The vehicle Shideler was driving was necessary for Holscher to complete her work. It was a 2004 GMC Sierra 2500.

11. While Greg Shideler was waiting at the intersection, Jayne Lux approached the intersection from the east and was heading west on Durston Road

12. The light turned green for Greg Shideler, and he began moving forward through the intersection.

13. As Shideler entered the intersection, Lux had a red light.

14. Lux ran the red light, and hit the GMC Sierra vehicle.

15. At the time of the accident, Lux was travelling in Jeep Cherokee registered to the U.S. Government, and on her way to Fort Harrison, in Helena, Montana.

16. Subsequent to the accident, Ms. Holscher contacted the DVA and requested that the DVA cover her injuries pursuant to *Ridley v. Guaranty National Insurance Co.*, 951 P.2d 987 (Mont. 1997). The DVA refused to cover Ms. Holscher's medical costs despite clear liability.

17. As a result of the collision, Ms. Holscher was injured. Her injuries include, but are not limited to damage to the vehicle and various injuries requiring medical treatment, the costs of the medical treatment, economic losses due to lost work, as well as pain and suffering and emotional distress.

COUNT I - NEGLIGENCE

18. The preceding paragraphs are realleged as though set forth in full hereunder.
19. Lux, and by extension, the United States had a duty to exercise due care while operating a motor vehicle. This duty includes obeying traffic laws and stop lights.
20. The United States breached this duty when Lux failed to stop at the light on Durston and North 15th Ave and struck the vehicle Shideler was driving.
21. The failure to stop caused Holscher's injuries and the GMC Sierra.
22. The United States is, therefore, liable for its negligence.

WHEREFORE, Plaintiffs respectfully pray for the following relief:

1. Her actual and compensatory damages, including but not limited to lost wages/income, emotional distress, ongoing pain and suffering, and the costs of medical treatment.
2. Costs and such further relief as this Court may deem just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38, F. R. Civ. P., Plaintiffs hereby demand a trial by jury of the issues triable by right by jury.

DATED this 19th day of October, 2021.

By: /s/ Robert Farris-Olsen
Robert Farris-Olsen
MORRISON SHERWOOD WILSON DEOLA PLLP
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